

**2001 DRAFTING REQUEST**

**Bill**

Received: **09/20/2001**

Received By: **rmarchan**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - LRC**

By/Representing: **Rachel Letzing**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - miscellaneous**  
**Fin. Inst. - securities**  
**Fin. Inst. - banking inst.**

Extra Copies:

Submit via email: **NO**

**Pre Topic:**

No specific pre topic given

**Topic:**

Franchise registration statements, definition of banking, trust powers, authority of the division of banking, securities licenses, sellers of checks

**Instructions:**

See Attached. Combine LRB-1410, 1435, 1436, 1438, 1442, and 1443 into one draft.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	rmarchan 09/24/2001	gilfokm 10/08/2001		_____			State
/P2	rmarchan 01/16/2002	gilfokm 02/04/2002	pgreensl 10/09/2001	_____	lrb_docadmin 10/09/2001		State
/1			kfollet 02/06/2002	_____	lrb_docadmin 02/06/2002	lrb_docadminState 02/07/2002 lrb_docadmin 02/07/2002	

for Nick Zavos  
 LC  
 per RJM

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

EE Sent For:

At intro:

<END>

**2001 DRAFTING REQUEST**

**Bill**

Received: **09/20/2001**

Received By: **rmarchan**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - LRC**

By/Representing: **Rachel Letzing**

This file may be shown to any legislator: **NO**

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May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - miscellaneous**  
**Fin. Inst. - securities**  
**Fin. Inst. - banking inst.**

Extra Copies:

Submit via email: **NO**

**Pre Topic:**

No specific pre topic given

**Topic:**

Franchise registration statements, definition of banking, trust powers, authority of the division of banking, securities licenses, sellers of checks

**Instructions:**

See Attached. Combine LRB-1410, 1435, 1436, 1438, 1442, and 1443 into one draft.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	rmarchan 09/24/2001	gilfokm 10/08/2001		_____			State
/P2	rmarchan 01/16/2002	gilfokm 02/04/2002	pgreensl 10/09/2001	_____	lrb_docadmin 10/09/2001		State
/1			kfollet 02/06/2002	_____	lrb_docadmin 02/06/2002		State

FE Sent For:

**<END>**

2001 DRAFTING REQUEST

Bill

Received: 09/20/2001

Received By: rmarchan

Wanted: As time permits

Identical to LRB:

For: Legislative Council - LRC

By/Representing: Rachel Letzing

This file may be shown to any legislator: NO

Drafter: rmarchan

May Contact:

Addl. Drafters:

Subject: Fin. Inst. - miscellaneous
Fin. Inst. - securities
Fin. Inst. - banking inst.

Extra Copies:

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Franchise registration statements, definition of banking, trust powers, authority of the division of banking, securities licenses, sellers of checks

Instructions:

See Attached. Combine LRB-1410, 1435, 1436, 1438, 1442, and 1443 into one draft.

Drafting History:

Table with columns: Vers., Drafted, Reviewed, Typed, Proofed, Submitted, Jacketed, Required. Includes handwritten notes and signatures like '1-2/4/2002 kmj', 'pgreensl 10/09/2001', and 'lrb\_docadmin 10/09/2001'.

### 2001 DRAFTING REQUEST

#### Bill

Received: 09/20/2001

Received By: rmarchan

Wanted: As time permits

Identical to LRB:

For: Legislative Council - LRC

By/Representing: Rachel Letzing

This file may be shown to any legislator: NO

Drafter: rmarchan

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - miscellaneous**  
**Fin. Inst. - securities**  
**Fin. Inst. - banking inst.**

Extra Copies: *KMG*

Submit via email: NO

#### Pre Topic:

No specific pre topic given

#### Topic:

Franchise registration statements, definition of banking, trust powers, authority of the division of banking, securities licenses, sellers of checks

#### Instructions:

See Attached. Combine LRB-1410, 1435, 1436, 1438, 1442, and 1443 into one draft.

#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan		<i>Complete</i> <i>kyf</i> <i>9/21</i>	<i>10/9</i> <i>PS HGF</i>			
			<i>10/9</i> <i>PS</i>	<i>&lt;END&gt;</i>			

FE Sent For:

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*Leave this component in document if you wish to retrieve Bill Drafts*

*Leave this component in document if you wish to retrieve DOA Bill Drafts*

*Leave this component in document if you wish to retrieve Amendments*

*Leave this component in document if you wish to retrieve LFR Amendment Drafts*

-1410

-1435

-1436

-1438

-1442

-1443

## Sorted Item List

<u>Store File Name</u>	<u>Text</u>
-1436.1	217.02 (9) of the statutes is amended to read:
-1410.1	220.02 (2) (e) and (f) of the statutes are created to read:
-1435.1	221.0316 (4) of the statutes is amended to read:
-1435.2	223.07 (1) of the statutes is amended to read:
-1438.1	224.02 of the statutes is amended to read:
-1442.1	551.63 (2) of the statutes is amended to read:
-1443.1	553.26 (4m) of the statutes is amended to read:
-1443.2	553.31 (2) of the statutes is amended to read:



## Marchant, Robert

---

**From:** Letzing, Rachel  
**Sent:** Thursday, September 20, 2001 9:06 AM  
**To:** Marchant, Robert  
**Subject:** law revision--DFI and DFI-CU

Hi Robert,

The Law Revision Committee met on Tuesday and voted to introduce the following Dept. of Financial Institutions bills:

LRB 1410/p1  
LRB 1435/p1  
LRB 1436/p1  
LRB 1438/p1  
LRB 1442/p1  
LRB 1443/p1

Could we have these drafts for DFI rolled into one 2001 bill? We will need to insert Section notes later on.

They also voted to introduce the LRB 1853/p1 for the DFI-Office of Credit Unions, but with an amendment suggested by ✓DFI: additional references to the now disbanded "Credit Union savings insurance corporation" should also be repealed, including references in ss. 231.17, 445.125 (4) (b) and 880.04 (2) (a). Could we have this one redrafted as amended to be introduced as a 2001 bill? We'll insert Section notes later.

Please feel free to call me with any questions. Thank you!

Rachel E. Letzing -  
Legislative Council Staff  
(608) 266-3370  
rachel.letzing@legis.state.wi.us

2001 DRAFTING REQUEST

Bill

Received: 12/12/2000

Received By: rmarchan

Wanted: As time permits

Identical to LRB:

For: Legislative Council - LRC 6-1308

By/Representing: Nick Zavos

This file may be shown to any legislator: NO

Drafter: rmarchan

May Contact:

Addl. Drafters:

Subject: Fin. Inst. - banking inst.  
Fin. Inst. - securities

Extra Copies:

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Exempting certain investment agents from regulation as persons engaged in the business of banking

Instructions:

See Attached. Redraft LRB-0240/P1.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 01/09/2001	jdyer 01/12/2001 gilfokm 01/12/2001	haugeca 01/12/2001	_____	_____	_____	State
/P1			martykr 01/22/2001	_____	gretskl 01/22/2001	_____	

FE Sent For:

<END>

## PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT to amend 224.02 of the statutes; relating to: exempting certain  
2 investment agents from regulation as persons engaged in the business of  
3 banking (suggested as remedial legislation by the department of financial  
4 institutions).

---

*Analysis by the Legislative Reference Bureau*

With certain exceptions, current law prohibits a person from engaging in the business of banking without being organized and chartered as a national bank, state bank, or trust company bank. Certain agents who receive and hold money, pending investment in real estate or securities on behalf of the person who deposited the money, are not engaged in the business of banking, as that term is currently defined. However, this exemption from the definition of banking only applies if the agent keeps the money in a separate trust fund, does not mingle the money with the agent's own property, and does not agree to pay interest on the money other than to account for the actual income that is derived from the money while held pending investment.

This bill expands this exemption from the definition of banking. Under this bill, an agent who receives and holds money, pending investment in real estate or securities on behalf of the person who deposits the money, is not engaged in the business of banking, regardless of whether the money is separately kept and regardless of whether the agent agrees to pay interest on the money. Thus, under this bill, an agent may pay interest on money that the agent receives and holds, pending investment in real estate or securities on behalf of the person who deposited the money.



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1438/P1dn  
RJM:kmg:km

January 22, 2001

Nick Zavos:

This draft is in preliminary form. Please contact me after you have prepared the notes for placement in the draft. I will then redraft the proposal, in introducible form, to include each note. Feel free to call if you have any questions.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us

**2001 DRAFTING REQUEST**

**Bill**

Received: 12/12/2000

Received By: **rmarchan**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - LRC 6-1308**

By/Representing: **Nick Zavos**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - banking inst.**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Exercise of trust powers by state banks and trust company banks

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**Instructions:**

See Attached. Redraft LRB-3581/1, with changes.

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 01/11/2001	jdye 01/18/2001		_____			State
/P1			martykr 01/22/2001	_____	lrb_docadmin 01/22/2001		

FE Sent For:

<END>

## PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT *to amend* 221.0316 (4) and 223.07 (1) of the statutes; **relating to:** the  
2 exercise of trust powers by state banks and trust company banks (suggested as  
3 remedial legislation by the department of financial institutions).

---

***Analysis by the Legislative Reference Bureau***

Currently, a state bank may exercise certain trust powers with the approval of the division of banking (division) in the department of financial institutions. In addition, with the approval of the division, a trust company bank or a state bank exercising trust powers may offer trust services at the offices of certain other financial institutions, as long as the offices are in this state. This bill expands the authority of the division to allow a state bank or a trust company bank to offer trust services at the out-of-state offices of these financial institutions.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of financial institutions and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the





**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1435/P1dn  
RJM:jld:km

January 19, 2001

Nick Zavos:

1. This bill is in preliminary form. Please contact me after you have prepared the notes for the bill and I will redraft the bill, along with the notes, in introducible form.
2. Please note that this bill may be more extensive than a minor substantive remedial measure under s. 13.83 (1) (c) 4.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us

**2001 DRAFTING REQUEST****Bill**Received: **12/08/2000**Received By: **rmarchan**Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - LRC 6-1308**By/Representing: **Nicholas Zavos**This file may be shown to any legislator: **NO**Drafter: **rmarchan**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - banking inst.**

Extra Copies:

Submit via email: **NO****Pre Topic:**

No specific pre topic given

**Topic:**

Authority of the division of banking

**Instructions:**

See Attached. Clarify that the division of banking has authority under s. 220.02 to enforce laws against mortgage bankers and non-depository SBA lenders.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 01/12/2001	jdye 01/13/2001					
/P1			rschluet 01/18/2001		lrb_docadmin 01/18/2001		

FE Sent For:

&lt;END&gt;

## PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to create** 220.02 (2) (e) and (f) of the statutes; **relating to:** the authority  
2 of the division of banking in the department of financial institutions (suggested  
3 as remedial legislation by the department of financial institutions).

---

*Analysis by the Legislative Reference Bureau*

Under current law, the division of banking (division) in the department of financial institutions has general authority to enforce all laws relating to banks and banking in this state. In addition, the division has specific authority to regulate certain financial institutions, including mortgage bankers, loan originators, mortgage brokers, and certain commercial institutions that lend to small businesses. This bill specifies that the division's general authority to enforce laws relating to banks and banking includes the authority to enforce laws relating to these financial institutions.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of financial institutions and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill

makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 220.02 (2) (e) and (f) of the statutes are created to read:

2 220.02 (2) (e) Mortgage bankers, loan originators, and mortgage brokers under  
3 subch. III of ch. 224.

4 (f) Nondepository small business lenders under subch. IV of ch. 224.

5 (END)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1410/P1dn  
RJM:jld:rs

January 18, 2001

Nick Zavos:

I have drafted this bill in preliminary form. Please forward to me your notes for inclusion in the draft and any suggested changes. I will then redraft the bill in introducible form. Let me know if you have any questions.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us

**2001 DRAFTING REQUEST**

**Bill**

Received: **12/12/2000**

Received By: **rmarchan**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - LRC 6-1308**

By/Representing: **Nick Zavos**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - securities**

Extra Copies:

Submit via email: **NO**

---

**Pre Topic:**

No specific pre topic given

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**Topic:**

Revocation or suspension of securities licenses

---

**Instructions:**

See Attached. Redraft section 6 of 1999 AB-938.

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 01/11/2001	jdyer 01/18/2001		_____			State
/P1			pgreensl 01/22/2001	_____	lrb_docadmin 01/22/2001		

FE Sent For:

<END>

## PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1     **AN ACT to amend** 551.63 (2) of the statutes; **relating to:** the licensing of  
2           securities broker-dealers, agents, investment advisers, and investment  
3           adviser representatives (suggested as remedial legislation by the department  
4           of financial institutions).

---

*Analysis by the Legislative Reference Bureau*

Under current law, the division of securities in the department of financial institutions (DFI) oversees the licensing of securities broker-dealers, agents, investment advisers, and investment adviser representatives. Current law generally requires every order of the division of securities to be appropriate for the protection of both investors and the public interest. Current law also specifically requires the division of securities to restrict or suspend a license if the licensee fails to pay court-ordered child support and to revoke a license if the licensee is liable for delinquent taxes. This bill clarifies that the general standard regarding protection of investors and the public interest does not apply to an order restricting, suspending, or revoking a license due to unpaid child support or delinquent taxes.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of financial institutions and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1           **SECTION 1.** 551.63 (2) of the statutes is amended to read:  
2           551.63 (2) ~~No~~ Except as provided under s. 551.34 (1m) (b) and (c), no rule, form  
3           or order may be made, amended or rescinded unless the division finds that the action  
4           is necessary or appropriate in the public interest and for the protection of investors.  
5           In prescribing rules and forms the division may cooperate with the securities  
6           administrators of other states and the securities and exchange commission with a  
7           view to achieving maximum uniformity in the form and content of registration  
8           statements, notice filings, applications and reports wherever practicable.

NOTE: The current standard in s. 551.63 (2), stats., for actions of the division of securities prohibits rules, forms, or orders from being made, amended, or rescinded unless the division finds that the action is necessary or appropriate in the public interest and for the protection of investors. However, current s. 551.34 (1m) (b) and (c), stats., require action when a licensee fails to pay court-ordered child support or is liable for delinquent taxes.

This SECTION amends s. 551.63 (2), stats., to exclude the actions required for child support enforcement and delinquent taxes from the general standard used for division actions.

9

(END)



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1442/P1dn  
RJM:jld:pg

January 19, 2001

Nick Zavos:

This bill is in preliminary form. It includes the law revision committee notes that were contained in 1999 AB-938. After you have reviewed the bill, please contact me with any suggested changes or to request that the bill be redrafted in introducible form.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us

2001 DRAFTING REQUEST

Bill

Received: 12/12/2000

Received By: rmarchan

Wanted: As time permits

Identical to LRB:

For: Legislative Council - LRC 6-1308

By/Representing: Nick Zavos

This file may be shown to any legislator: NO

Drafter: rmarchan

May Contact:

Addl. Drafters:

Subject: Fin. Inst. - miscellaneous

Extra Copies:

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Sellers of checks

Instructions:

See Attached. Redraft LRB-0242/P1.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/P1			pgreensf 01/23/2001	_____	lrb_docadmin 01/23/2001		

FE Sent For:

<END>

## PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT *to amend* 217.02 (9) of the statutes; **relating to:** the regulation of certain  
2 telegraph companies as sellers of checks (suggested as remedial legislation by  
3 the department of financial institutions).

---

*Analysis by the Legislative Reference Bureau*

With certain exceptions, current law requires any person who engages in the business of selling and issuing checks, transmitting money, or receiving money for transmission (seller of checks) to obtain a license from the division of banking in the department of financial institutions. Current law also contains numerous regulations specifically governing sellers of checks. Currently, any telegraph company that receives money for immediate transmission by telegraph is exempt from the definition of "seller of checks" and, as a result, from these laws relating to sellers of checks. This bill removes this exemption.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of financial institutions and introduced by the law



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1436/P1dn  
RJM:jld:pg

January 22, 2001

Nick Zavos:

This draft is in preliminary form. Please contact me after you have prepared the notes for placement in the draft. I will then redraft the proposal, in introducible form, to include each note. Feel free to call if you have any questions.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us

**2001 DRAFTING REQUEST**

**Bill**

Received: 12/12/2000

Received By: **rmarchan**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - LRC 6-1308**

By/Representing: **Nick Zavos**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - banking inst.**  
**Fin. Inst. - securities**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

No specific pre topic given

---

**Topic:**

Exempting certain investment agents from regulation as persons engaged in the business of banking

---

**Instructions:**

See Attached. Redraft LRB-0240/P1.

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 01/09/2001	jdyer 01/12/2001	haugeca 01/12/2001	_____	_____		State
		gilfokm 01/12/2001		_____	_____		
/P1			martykr 01/22/2001	_____	gretskl 01/22/2001		

FE Sent For:

<END>

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1853/P1dn  
RJM:wlj:rs

January 30, 2001

Nick Zavos:

This draft is in preliminary form. Please contact me after you have prepared the notes for placement in the draft. I will then redraft the proposal, in introducible form, to include each note. Feel free to call if you have any questions.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us

**2001 DRAFTING REQUEST**

**Bill**

Received: 12/12/2000

Received By: **rmarchan**

Wanted: **As time permits**

Identical to I.R.B.:

For: **Legislative Council - LRC 6-1308**

By/Representing: **Nick Zavos**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - miscellaneous**

Extra Copies:

Submit via email: **NO**

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Franchise registration statements

---

**Instructions:**

See Attached. Redraft sections 7 and 8 of 1999 AB-938.

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 01/11/2001	jdye 01/18/2001		_____			State
/P1			martykr 01/19/2001	_____	lrb_docadmin 01/19/2001		

FE Sent For:

-<END>



## PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT *to amend* 553.26 (4m) and 553.31 (2) of the statutes; **relating to:**  
2 requirements for changing a franchise registration (suggested as remedial  
3 legislation by the department of financial institutions).

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*Analysis by the Legislative Reference Bureau*

Under Wisconsin's current franchise investment law, a person attempting to sell a franchise must generally register the franchise offered for sale with the division of securities in DFI. It is unclear, though, whether the person is similarly required to register any material changes to the registration statement. This bill clarifies that, once a person has properly registered a franchise, the person is not required to file any additional information except amendments that reflect material changes to the registration statement. This bill also changes the effective date of any amendment filed after the effective date of the registration from the date the division of securities approves of the amendment to the date the division of securities receives the amendment.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of financial institutions and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1           **SECTION 1.** 553.26 (4m) of the statutes is amended to read:

2           553.26 (4m) A person who has complied with sub. (1) need not file with the  
3           division, during the period when the registration is effective, any more information,  
4           ~~including any amendments to the offering circular other than an application or~~  
5           amendment required to be filed under s. 553.31. The division may not require  
6           changes in the offering circular filed by the franchisor, subject to the division’s  
7           authority to suspend or revoke a registration for any of the causes under s. 553.28.

NOTE: This SECTION results from 1995 Wisconsin Act 364. The legislation, introduced as 1995 Assembly Bill 782, would have repealed s. 553.31, stats., which requires a franchise registrant to file material amendments to its uniform franchise offering circular. Assembly Amendment 4 to Assembly Bill 782 deleted the proposed repeal of s. 553.31. However, the amendment did not include the necessary changes to s. 553.26 (4m), stats., to remove inconsistent language and to clarify that the amendments required under s. 553.31, stats., must still be filed with the division of securities in the department of financial institutions. This SECTION makes those changes.

8           **SECTION 2.** 553.31 (2) of the statutes is amended to read:

9           553.31 (2) An amendment ~~to an application~~ filed after the effective date of the  
10           registration of the sale of franchises, ~~if the amendment is approved by the division,~~  
11           ~~is effective on the date the division determines, having due regard for the public~~  
12           interest or the protection of franchisees is effective upon receipt of the amendment  
13           by the division.

NOTE: This SECTION amends s. 553.31 (2), stats., to clarify that any amendment that is filed with the division of securities after the effective date of a registration of the sale of a franchise is effective upon receipt of the amendment by the division. The current statute is ambiguous as to whether it applies to any amendment filed after an effective registration or only to an amendment to an *application* that was filed after an effective registration.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1443/P1dn  
RJM:jld:km

January 19, 2001

Nick Zavos:

This bill is in preliminary form. It includes the law revision committee notes that were contained in 1999 AB-938. After you have reviewed the bill, please contact me with any suggested changes or to request that the bill be redrafted in introducible form.

Robert J. Marchant  
Legislative Attorney  
- Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-3819/P1 P2

RJM:::kjf

10-9-01

-all

RMNR

NOTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

LPS: Suppress Atty. Numbers

Gen. Cat.

1 AN ACT *to amend* 217.02 (9), 221.0316 (4), 223.07 (1), 224.02, 551.63 (2), 553.26  
2 (4m) and 553.31 (2); and *to create* 220.02 (2) (e) and (f) of the statutes; **relating**  
3 **to:** the authority of the division of banking in the department of financial  
4 institutions (~~suggested as remedial legislation by the department of financial~~  
5 ~~institutions~~); the exercise of trust powers by state banks and trust company  
6 banks (~~suggested as remedial legislation by the department of financial~~  
7 ~~institutions~~); the regulation of certain telegraph companies as sellers of checks  
8 (~~suggested as remedial legislation by the department of financial institutions~~);  
9 exempting certain investment agents from regulation as persons engaged in  
10 the business of banking (~~suggested as remedial legislation by the department~~  
11 ~~of financial institutions~~); the licensing of securities broker-dealers, agents,  
12 investment advisers, and investment adviser representatives (~~suggested as~~  
13 ~~remedial legislation by the department of financial institutions~~); requirements

Keep

and

*[Handwritten signature]*

1 for changing a franchise registration (suggested as remedial legislation by the  
2 department of financial institutions).

**Analysis by the Legislative Reference Bureau**

(DFI)

STET

**\*\*\* ANALYSIS FROM -1410/P1 \*\*\***

Under current law, the division of banking (division) in the department of financial institutions has general authority to enforce all laws relating to banks and banking in this state. In addition, the division has specific authority to regulate certain financial institutions, including mortgage bankers, loan originators, mortgage brokers, and certain commercial institutions that lend to small businesses. This bill specifies that the division's general authority to enforce laws relating to banks and banking includes the authority to enforce laws relating to these financial institutions.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

**\*\*\* ANALYSIS FROM -1435/P1 \*\*\***

o

Currently, a state bank may exercise certain trust powers with the approval of the division of banking (division) in the department of financial institutions. In addition, with the approval of the division, a trust company bank or a state bank exercising trust powers may offer trust services at the offices of certain other financial institutions, as long as the offices are in this state. This bill expands the authority of the division to allow a state bank or a trust company bank to offer trust services at the out-of-state offices of these financial institutions.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

**\*\*\* ANALYSIS FROM -1436/P1 \*\*\***

With certain exceptions, current law requires any person who engages in the business of selling and issuing checks, transmitting money, or receiving money for transmission (seller of checks) to obtain a license from the division of banking (division) in the department of financial institutions. Current law also contains numerous regulations specifically governing sellers of checks. Currently, any telegraph company that receives money for immediate transmission by telegraph is exempt from the definition of "seller of checks" and, as a result, from these laws relating to sellers of checks. This bill removes this exemption.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

**\*\*\* ANALYSIS FROM -1438/P1 \*\*\***

With certain exceptions, current law prohibits a person from engaging in the business of banking without being organized and chartered as a national bank, state bank, or trust company bank. Certain agents who receive and hold money, pending investment in real estate or securities on behalf of the person who deposited the money, are not engaged in the business of banking, as that term is currently defined. However, this exemption from the definition of banking only applies if the agent

specified banking institution under state or federal law

~~DFI~~ comingle

keeps the money in a separate trust fund, does not ~~mix~~ the money with the agent's own property, and does not agree to pay interest on the money other than to account for the actual income that is derived from the money while held pending investment.

This bill expands this exemption from the definition of banking. Under this bill, an agent who receives and holds money, pending investment in real estate or securities on behalf of the person who deposits the money, is not engaged in the business of banking, regardless of whether the money is separately kept and regardless of whether the agent agrees to pay interest on the money. Thus, under this bill, an agent may pay interest on money that the agent receives and holds, pending investment in real estate or securities on behalf of the person who deposited the money.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

\*\*\* ANALYSIS FROM -1442/P1 \*\*\*

DFI

Under current law, the division of securities in the department of financial institutions ~~in DFI~~ oversees the licensing of securities broker-dealers, agents, investment advisers, and investment adviser representatives. Current law generally requires every order of the division of securities to be appropriate for the protection of both investors and the public interest. Current law also specifically requires the division of securities to restrict or suspend a license if the licensee fails to pay court-ordered child support and to revoke a license if the licensee is liable for delinquent taxes. This bill clarifies that the general standard regarding protection of investors and the public interest does not apply to an order restricting, suspending, or revoking a license due to unpaid child support or delinquent taxes.

STET

STET

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

\*\*\* ANALYSIS FROM -1443/P1 \*\*\*

Under Wisconsin's current franchise investment law, a person attempting to sell a franchise must generally register the franchise offered for sale with the division of securities ~~in DFI~~. It is unclear, though, whether the person is similarly required to register any material changes to the registration statement. This bill clarifies that, once a person has properly registered a franchise, the person is not required to file any additional information except amendments that reflect material changes to the registration statement. This bill also changes the effective date of any amendment filed after the effective date of the registration from the date the division of securities approves of the amendment to the date the division of securities receives the amendment.

STET

STET

STET

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of financial institutions and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1           **\*-1436/P1.1\* SECTION 1.** 217.02 (9) of the statutes is amended to read:

2           217.02 (9) "Seller of checks" means a person who, as a service or for a fee or  
3 other consideration, engages in the business of selling and issuing checks or the  
4 receiving of money for transmission or the transmitting of money, or the transmitting  
5 of money to foreign countries, ~~but does not include the business of a telegraph~~  
6 ~~company in receiving money for immediate transmission by telegraph.~~

7           **\*-1410/P1.1\* SECTION 2.** 220.02 (2) (e) and (f) of the statutes are created to  
8 read:

9           220.02 (2) (e) Mortgage bankers, loan originators, and mortgage brokers under  
10 subch. III of ch. 224.

11           (f) Nondepository small business lenders under subch. IV of ch. 224.

12           **\*-1435/P1.1\* SECTION 3.** 221.0316 (4) of the statutes is amended to read:

13           221.0316 (4) TRUST SERVICE OFFICES. A state bank exercising trust powers may,  
14 with the approval of the division, establish and maintain a trust service office at any  
15 office ~~in this state~~ of any other depository institution, as defined under s. 221.0901  
16 (2) (i). A state bank may, with the approval of the division, permit any other  
17 depository institution, as defined under s. 221.0901 (2) (i), exercising trust powers  
18 or any trust company bank organized under ch. 223 to establish and maintain a trust  
19 service office at any of its banking offices. The establishment and operation of a trust  
20 service office are subject to s. 223.07. This subsection does not authorize branch  
21 banking.

22           **\*-1435/P1.2\* SECTION 4.** 223.07 (1) of the statutes is amended to read:

1           223.07 (1) Any trust company bank may, with the approval of the division,  
2 establish and maintain a trust service office at any office ~~in this state~~ of a depository  
3 institution, as defined in s. 221.0901 (2) (i), if the establishment of the trust service  
4 office has been approved by the board of directors of the ~~state or national bank~~  
5 depository institution at a meeting called for that purpose.

6           \*~~1438/P1.1~~\* SECTION 5. 224.02 of the statutes is amended to read:

7           **224.02 Banking, defined.** The soliciting, receiving, or accepting of money or  
8 its equivalent on deposit as a regular business by any person, partnership,  
9 association, or corporation, shall be deemed to be doing a banking business, whether  
10 such deposit is made subject to check or is evidenced by a certificate of deposit, a  
11 passbook, a note, a receipt, or other writing, provided that nothing herein shall apply  
12 to or include money left with an agent, pending investment in real estate or securities  
13 for or on account of the agent's principal. ~~Provided, however, that if money so left with~~  
14 ~~an agent for investment shall not be kept in a separate trust fund or if the agent~~  
15 ~~receiving such money shall mingle same with the agent's own property, whether with~~  
16 ~~or without the consent of the principal, or shall make an agreement to pay any certain~~  
17 ~~rate of interest thereon or any agreement to pay interest thereon other than an~~  
18 ~~agreement to account for the actual income which may be derived from such money~~  
19 ~~while held pending investment, the person receiving such money shall be deemed to~~  
20 ~~be in the banking business.~~

21           \*~~1442/P1.1~~\* SECTION 6. 551.63 (2) of the statutes is amended to read:

22           551.63 (2) ~~No~~ Except as provided under s. 551.34 (1m) (b) and (c), no rule, form  
23 or order may be made, amended or rescinded unless the division finds that the action  
24 is necessary or appropriate in the public interest and for the protection of investors.  
25 In prescribing rules and forms the division may cooperate with the securities



1 administrators of other states and the securities and exchange commission with a  
 2 view to achieving maximum uniformity in the form and content of registration  
 3 statements, notice filings, applications and reports wherever practicable.

NOTE: The current standard in s. 551.63 (2), stats., for actions of the division of securities prohibits rules, forms, or orders from being made, amended, or rescinded unless the division finds that the action is necessary or appropriate in the public interest and for the protection of investors. However, current s. 551.34 (1m) (b) and (c), stats., require action when a licensee fails to pay court-ordered child support or is liable for delinquent taxes.

~~\_\_\_\_\_~~  
 This SECTION amends s. 551.63 (2), stats., to exclude the actions required for child support enforcement and delinquent taxes from the general standard used for division actions.

4 **\*-1443/P1.1\* SECTION 7.** 553.26 (4m) of the statutes is amended to read:

5 553.26 (4m) A person who has complied with sub. (1) need not file with the  
 6 division, during the period when the registration is effective, any more information,  
 7 ~~including any amendments to the offering circular other than an application or~~  
 8 ~~amendment required to be filed under s. 553.31.~~ The division may not require  
 9 changes in the offering circular filed by the franchisor, subject to the division's  
 10 authority to suspend or revoke a registration for any of the causes under s. 553.28.

NOTE: This SECTION results from 1995 Wisconsin Act 364. The legislation, introduced as 1995 Assembly Bill 782, would have repealed s. 553.31, stats., which requires a franchise registrant to file material amendments to its uniform franchise offering circular. Assembly Amendment 4 to Assembly Bill 782 deleted the proposed repeal of s. 553.31. However, the amendment did not include the necessary changes to s. 553.26 (4m), stats., to remove inconsistent language and to clarify that the amendments required under s. 553.31, stats., must still be filed with the division of securities in the department of financial institutions. This SECTION makes those changes.

11 **\*-1443/P1.2\* SECTION 8.** 553.31 (2) of the statutes is amended to read:

12 553.31 (2) An amendment ~~to an application~~ filed after the effective date of the  
 13 registration of the sale of franchises, ~~if the amendment is approved by the division,~~  
 14 ~~is effective on the date the division determines, having due regard for the public~~  
 15 ~~interest or the protection of franchisees~~ is effective upon receipt of the amendment  
 16 by the division.

NOTE: This SECTION amends s. 553.31 (2), stats., to clarify that any amendment that is filed with the division of securities after the effective date of a registration of the sale of a franchise is effective upon receipt of the amendment by the division. The current statute is ambiguous as to whether it applies to any amendment filed after an effective registration or only to an amendment to an *application* that was filed after an effective registration.

1

(END)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3819/P2dn

RJM:....

*King*

Rachel Letzing:

Attached is the compiled draft <sup>that</sup> you requested containing LRB-1410, 1435, 1436, 1438, 1442, and 1443 (all remedial legislation suggested by DFI). This draft is in preliminary form. After you have reviewed the draft, please contact me with any suggested changes, or ~~to~~ provide me with any additional law revision committee notes and I will redraft the ~~bill~~ in introducible form. ✓ ✓ ✓ ✓

*draft*

*CS*

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3819/P2dn

RJM:kmg:pg

October 9, 2001

Rachel Letzing:

Attached is the compiled draft that you requested containing LRB-1410, 1435, 1436, 1438, 1442, and 1443 (all remedial legislation suggested by DFI). This draft is in preliminary form. After you have reviewed the draft, please contact me with any suggested changes, or provide me with any additional law revision committee NOTES and I will redraft the draft in introducible form.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: [robert.marchant@legis.state.wi.us](mailto:robert.marchant@legis.state.wi.us)

2-20-02 or sooner

stays  
KMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Note: stb

LPS: Check  
autosefs -

Various changes regarding the department of financial institutions and persons regulated by the department of financial institutions and granting rule-making authority

re-gen

1 AN ACT to amend 217.02 (9), 221.0316 (4), 223.07 (1), 224.02, 551.63 (2), 553.26  
 2 (4m) and 553.31 (2); and to create 220.02 (2) (e) and (f) of the statutes; relating  
 3 to: the authority of the division of banking in the department of financial  
 4 institutions; the exercise of trust powers by state banks and trust company  
 5 banks; the regulation of certain telegraph companies as sellers of checks;  
 6 exempting certain investment agents from regulation as persons engaged in  
 7 the business of banking; the licensing of securities broker-dealers, agents,  
 8 investment advisers, and investment adviser representatives; and  
 9 requirements for changing a franchise registration (suggested as remedial  
 10 legislation by the department of financial institutions).

INSTR ANALYSIS A

**Analysis by the Legislative Reference Bureau**

Under current law, the ~~division of banking~~ ~~division~~ ~~in~~ the department of financial institutions ~~has~~ has general authority to enforce all laws relating to banks and banking in this state. In addition, the division has specific authority to regulate certain financial institutions, including mortgage bankers, loan originators, mortgage brokers, and certain commercial institutions that lend to small businesses. This bill specifies that the division's general authority to enforce

Subsub

Authority of the division of banking

←

*sub-sub* → Trust services

laws relating to banks and banking includes the authority to enforce laws relating to these financial institutions.

Currently, a state bank may exercise certain trust powers with the approval of the division. In addition, with the approval of the division, a trust company bank or a state bank exercising trust powers may offer trust services at the offices of certain other financial institutions, as long as the offices are in this state. This bill expands the authority of the division to allow a state bank or a trust company bank to offer trust services at the out-of-state offices of these financial institutions.

*sub-sub*  
Sellers of checks

With certain exceptions, current law requires any person who engages in the business of selling and issuing checks, transmitting money, or receiving money for transmission (seller of checks) to obtain a license from the division. Current law also contains numerous regulations specifically governing sellers of checks. Currently, any telegraph company that receives money for immediate transmission by telegraph is exempt from the definition of "seller of checks" and, as a result, from these laws relating to sellers of checks. This bill removes this exemption.

*sub-sub*  
Securities and investments

With certain exceptions, current law prohibits a person from engaging in the business of banking without being organized and chartered as a specified banking institution under state or federal law. Certain agents who receive and hold money, pending investment in real estate or securities on behalf of the person who deposited the money, are not engaged in the business of banking, as that term is currently defined. However, this exemption from the definition of banking only applies if the agent keeps the money in a separate trust fund, does not commingle the money with the agent's own property, and does not agree to pay interest on the money other than to account for the actual income that is derived from the money while held pending investment.

This bill expands this exemption from the definition of banking. Under this bill, an agent who receives and holds money, pending investment in real estate or securities on behalf of the person who deposits the money, is not engaged in the business of banking, regardless of whether the money is separately kept and regardless of whether the agent agrees to pay interest on the money. Thus, under this bill, an agent may pay interest on money that the agent receives and holds, pending investment in real estate or securities on behalf of the person who deposited the money.

*sub-sub*  
Franchises

Under current law, the division of securities in DFI oversees the licensing of securities broker-dealers, agents, investment advisers, and investment adviser representatives. Current law generally requires every order of the division of securities to be appropriate for the protection of both investors and the public interest. Current law also specifically requires the division of securities to restrict or suspend a license if the licensee fails to pay court-ordered child support and to revoke a license if the licensee is liable for delinquent taxes. This bill clarifies that the general standard regarding protection of investors and the public interest does not apply to an order restricting, suspending, or revoking a license due to unpaid child support or delinquent taxes.

Under Wisconsin's current franchise investment law, a person attempting to sell a franchise must generally register the franchise offered for sale with the

division of securities. It is unclear, though, whether the person is similarly required to register any material changes to the registration statement. This bill clarifies that, once a person has properly registered a franchise, the person is not required to file any additional information except amendments that reflect material changes to the registration statement. This bill also changes the effective date of any amendment filed after the effective date of the registration from the date the division of securities approves of the amendment to the date the division of securities receives the amendment.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of financial institutions and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

**SECTION 1.** 217.02 (9) of the statutes is amended to read:

217.02 (9) "Seller of checks" means a person who, as a service or for a fee or other consideration, engages in the business of selling and issuing checks or the receiving of money for transmission or the transmitting of money, or the transmitting of money to foreign countries, but does not include the business of a telegraph company in receiving money for immediate transmission by telegraph.

**SECTION 2.** 220.02 (2) (e) and (f) of the statutes are created to read:

220.02 (2) (e) Mortgage bankers, loan originators, and mortgage brokers under subch. III of ch. 224.

(f) Nondepository small business lenders under subch. IV of ch. 224.

**SECTION 3.** 221.0316 (4) of the statutes is amended to read:

221.0316 (4) TRUST SERVICE OFFICES. A state bank exercising trust powers may, with the approval of the division, establish and maintain a trust service office at any

INSERT ANALYSIS B

INSERT 3-1

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INSERT LRB 3819 A

INSERT 3-7

INSERT LRB 3819 B

1 office ~~in this state~~ of any other depository institution, as defined under s. 221.0901  
 2 (2) (i). A state bank may, with the approval of the division, permit any other  
 3 depository institution, as defined under s. 221.0901 (2) (i), exercising trust powers  
 4 or any trust company bank organized under ch. 223 to establish and maintain a trust  
 5 service office at any of its banking offices. The establishment and operation of a trust  
 6 service office are subject to s. 223.07. This subsection does not authorize branch  
 7 banking.

8 **SECTION 4.** 223.07 (1) of the statutes is amended to read:

9 223.07 (1) Any trust company bank may, with the approval of the division,  
 10 establish and maintain a trust service office at any office ~~in this state~~ of a depository  
 11 institution, as defined in s. 221.0901 (2) (i), if the establishment of the trust service  
 12 office has been approved by the board of directors of the ~~state or national bank~~  
 13 depository institution at a meeting called for that purpose.

JWS:CR  
 12  
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 13

14 **SECTION 5.** 224.02 of the statutes is amended to read:

15 **224.02 Banking, defined.** The soliciting, receiving, or accepting of money or  
 16 its equivalent on deposit as a regular business by any person, partnership,  
 17 association, or corporation, shall be deemed to be doing a banking business, whether  
 18 such deposit is made subject to check or is evidenced by a certificate of deposit, a  
 19 passbook, a note, a receipt, or other writing, provided that nothing herein shall apply  
 20 to or include money left with an agent, pending investment in real estate or securities  
 21 for or on account of the agent's principal. ~~Provided, however, that if money so left with~~  
 22 ~~an agent for investment shall not be kept in a separate trust fund or if the agent~~  
 23 ~~receiving such money shall mingle same with the agent's own property, whether with~~  
 24 ~~or without the consent of the principal, or shall make an agreement to pay any certain~~  
 25 ~~rate of interest thereon or any agreement to pay interest thereon other than an~~



1 agreement to account for the actual income which may be derived from such money  
2 while held pending investment, the person receiving such money shall be deemed to  
3 be in the banking business.

4 SECTION 6. 551.63 (2) of the statutes is amended to read:

5 551.63 (2) No Except as provided under s. 551.34 (1m) (b) and (c), no rule, form  
6 or order may be made, amended or rescinded unless the division finds that the action  
7 is necessary or appropriate in the public interest and for the protection of investors.  
8 In prescribing rules and forms the division may cooperate with the securities  
9 administrators of other states and the securities and exchange commission with a  
10 view to achieving maximum uniformity in the form and content of registration  
11 statements, notice filings, applications and reports wherever practicable.

NOTE: The current standard in s. 551.63 (2), stats., for actions of the division of securities prohibits rules, forms, or orders from being made, amended, or rescinded unless the division finds that the action is necessary or appropriate in the public interest and for the protection of investors. However, current s. 551.34 (1m) (b) and (c), stats., require action when a licensee fails to pay court-ordered child support or is liable for delinquent taxes.

This SECTION amends s. 551.63 (2), stats., to exclude the actions required for child support enforcement and delinquent taxes from the general standard used for division actions.

12 SECTION 7. 553.26 (4m) of the statutes is amended to read:

13 553.26 (4m) A person who has complied with sub. (1) need not file with the  
14 division, during the period when the registration is effective, any more information,  
15 including any amendments to the offering circular other than an application or  
16 amendment required to be filed under s. 553.31. The division may not require  
17 changes in the offering circular filed by the franchisor, subject to the division's  
18 authority to suspend or revoke a registration for any of the causes under s. 553.28.

NOTE: This SECTION results from 1995 Wisconsin Act 364. The legislation, introduced as 1995 Assembly Bill 782, would have repealed s. 553.31, stats., which requires a franchise registrant to file material amendments to its uniform franchise offering circular. Assembly Amendment 4 to Assembly Bill 782 deleted the proposed repeal of s. 553.31. However, the amendment did not include the necessary changes to

s. 553.26 (4m), stats., to remove inconsistent language and to clarify that the amendments required under s. 553.31, stats., must still be filed with the division of securities in the department of financial institutions. This SECTION makes those changes.

1 SECTION 8. 553.31 (2) of the statutes is amended to read:

2 553.31 (2) An amendment ~~to an application~~ filed after the effective date of the  
3 registration of the sale of franchises, ~~if the amendment is approved by the division,~~  
4 ~~is effective on the date the division determines, having due regard for the public~~  
5 ~~interest or the protection of franchisees~~ is effective upon receipt of the amendment  
6 by the division.

NOTE: This SECTION amends s. 553.31 (2), stats., to clarify that any amendment that is filed with the division of securities after the effective date of a registration of the sale of a franchise is effective upon receipt of the amendment by the division. The current statute is ambiguous as to whether it applies to any amendment filed after an effective registration or only to an amendment to an *application* that was filed after an effective registration.

(END)

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IN 5531 6-7

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

*TWSSAPS*

1 AN ACT to amend 218.04 (1) (a) of the statutes; relating to: the regulation of  
2 certain professional men's associations as collection agencies (suggested as  
3 remedial legislation by the department of financial institutions).

*INSCR  
ANALYSIS  
BL*

*Analysis by the Legislative Reference Bureau*

Currently, a person who engages in business as a collection agency must be licensed by the commissioner of banking in the department of financial institutions (DFI) and is subject to laws specifically governing collection agencies. However, current law exempts certain entities from the definition of "collection agency" and, as a result, from the statutes governing collection agencies. Currently, certain professional men's associations that collect accounts for their members on a nonprofit basis are exempt from the definition of "collection agency." The term "professional men's association" is not currently defined.

*Collection agencies*

*subsub*

This bill removes this exemption for professional men's associations.

LAW REVISION COMMITTEE PREFATORY NOTE: [This bill is a remedial legislation proposal, requested by the ??? and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats.] [This bill is introduced by the law revision committee under s. 13.83 (1) (c), stats.] After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of financial institutions and introduced by the law revision committee under s. 13.83 (1) (c) 4, stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

**SECTION 1.** 218.04 (1) (a) of the statutes is amended to read:

218.04 (1) (a) "Collection agency" means any person engaging in the business of collecting or receiving for payment for others of any account, bill or other indebtedness. It shall not include attorneys at law authorized to practice in this state and resident herein, banks, express companies, state savings banks, state savings and loan associations, insurers and their agents, trust companies, or professional men's associations collecting accounts for its members on a nonprofit basis, where such members are required by law to have a license, diploma or permit to practice or follow their profession, real estate brokers, and real estate salespersons.

(END)

INSSA LRB-1437

INSSA  
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

*Inserts*

1 AN ACT *to renumber* 138.10 (6); *to renumber and amend* 138.10 (2m) and  
 2 138.10 (7); *to amend* 138.10 (2); *to repeal and recreate* 138.09 (title); and *to*  
 3 *create* 134.71 (15) and 138.10 (15) of the statutes; **relating to:** regulation of  
 4 pawnbrokers and granting rule-making authority (suggested as remedial  
 5 legislation by the department of financial institutions).

INSERT ANALYSIS AL

*Analysis by the Legislative Reference Bureau*

Currently, pawnbrokers are subject to multiple licensing and operational requirements under the trade regulation statutes, the licensed lender statutes, and the pawnbroker statutes. ~~Under the trade regulation statutes, a person who wishes to operate as a pawnbroker in a city, village, or town (municipality) must first obtain a license from the municipality. To obtain a pawnbroker's license, a person must apply to the clerk of the municipality and undergo a background check. If the applicant has not committed certain statutory violations and if the applicant meets all other requirements, the municipality must grant the license. The trade regulation statutes also regulate transactions between pawnbrokers and minors and require pawnbrokers to keep certain records and to make those records available to law enforcement agencies. With certain exceptions, the trade regulation statutes also mandate a 30-day holding period for property purchased or received by a pawnbroker, during which time the pawnbroker must make the property available for inspection by any law enforcement officer.~~

*Not* Under the licensed lender statutes, before any person, including a pawnbroker, may charge interest in excess of 18% per year, the person must obtain a license from

Pawnbrokers  
sub sub

(DFI)

the division of banking (division) within the department of financial institutions. The division must investigate all of the relevant facts regarding each applicant. If the division finds that the applicant is of sufficient character and general fitness, is financially responsible, and meets all other requirements specified under the licensed lender statutes, the division must grant the license. The licensed lender statutes also contain requirements regarding annual reports by licensees to the division and licensee record keeping.

Under the pawnbroker statutes, a pawnbroker may not charge interest in excess of 3% per month or, unless the pawnbroker is a licensed lender, make a loan in excess of \$150. The pawnbroker statutes also mandate a specific procedure that a pawnbroker must follow when selling property deposited with the pawnbroker as security for a loan.

~~Under this bill, the division has primary regulatory authority over any pawnbroker that is also a licensed lender. The bill exempts any person that is a licensed lender from the trade regulation statutes that specifically relate to pawnbrokers and from the current prohibitions on charging interest in excess of 3% per month and making loans in excess of \$150. In addition, the bill exempts any pawnbroker that is also a licensed lender from the current, mandated procedure regarding the sale of property deposited as security for a loan. Finally, the bill grants the division the authority to promulgate rules and issue orders to administer and enforce the licensed lender statutes.~~ <sup>This</sup> <sub>(see ins)</sub>

~~For further information, see the NOTES provided by the law revision committee of the joint legislative council.~~

~~For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.~~

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

~~LAW REVISION COMMITTEE PRELIMINARY NOTE: This bill is a remedial legislation proposal, requested by the department of financial institutions and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.~~

~~SECTION 1. 134.71 (15) of the statutes is created to read:~~

~~134.71 (15) EXCEPTION. The provisions of this section that apply to pawnbrokers do not apply to any person that is licensed under s. 138.09~~

~~SECTION 2. 138.09 (title) of the statutes is repealed and recreated to read:~~

~~138.09 (title) Licensed lenders.~~

~~SECTION 3. 138.10 (2) of the statutes is amended to read:~~

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INSET  
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*Strike phrase*

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138.10 (2) MAXIMUM LOAN. ~~Unless made by a person licensed under s. 138.09,~~  
A pawnbroker's loan may not exceed \$150.

SECTION 4. 138.10 (2m) of the statutes is renumbered 138.09 (13) and amended to read:

138.09 (13) ~~PAWNBROKING BY LICENSED LENDERS.~~ The division of banking may promulgate rules ~~regulating the conduct of pawnbroking by persons licensed under s. 138.09~~ and issue orders to administer and enforce this section.

SECTION 5. 138.10 (6) of the statutes is renumbered 138.10 (13).

SECTION 6. 138.10 (7) of the statutes is renumbered 138.10 (14) and amended to read:

138.10 (14) PENALTY. Any pawnbroker who ~~shall refuse~~ refuses to comply with sub. (6) (13) shall, ~~upon conviction, be punished by imprisonment~~ be imprisoned in the county jail for not more than one year or by fine fincd not ~~exceeding~~ more than \$500.

SECTION 7. 138.10 (15) of the statutes is created to read:

138.10 (15) EXCEPTION. This section does not apply to any person that is licensed under s. 138.09.

*Leave this*

*INSET LRB-1449*

**SECTION 8. Initial applicability.**

(1) ~~The treatment of section 138.10 (2) and (15) of the statutes~~ <sup>*auto ref*</sup> first applies to any person conducting business as a pawnbroker on the effective date of this subsection.

*INSET 6-7*

**SECTION 9. Effective date.**

(5) This act takes <sup>*ON*</sup> effect ~~the day~~ after publication, except as follows:

*fix component*



*CS*  
*PAWBROTHERS.*

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(1) The treatment of sections ~~134.71(15)~~ and 138.10 (2), (6), (7), and (15) of the statutes and SECTION (8) (1) of this act take effect on the first day of the 6th month beginning after publication. *Antony.* *2/1/03*

(END)

*a.r.*



# TWSS CUTS

LRB-3810

CS

THIS SECTION

NOTE: ~~Section 1~~ deletes the exemption of telegraph companies from the definition of "seller of checks." Telegraph companies no longer exist.

INSERT LRB-3819 A

NOTE: Under current law the division of banking (division) in the department of financial institutions has the specific authority to regulate mortgage brokers, mortgage bankers, loan originators and certain institutions that lend to small businesses. In addition the division's general authority authorizes it to enforce all laws relating to banks and banking in this state. ~~Section 2~~ specifies that the division's general authority includes the authority to regulate mortgage brokers, mortgage bankers, loan originators and certain institutions that lend to small businesses.

INSERT LRB-3819 B

THIS SECTION CS

NOTE: Under current law, the division of banking (division) in the department of financial institutions may allow a state bank to exercise certain trust powers. In addition, the division and may allow a trust company bank or a state bank exercising trust powers to offer trust services at the offices of certain other financial institutions, as long as the offices are in this state. During the 1995-1996 legislative session, the Legislature amended the law to allow out-of-state depository institutions to establish a Trust Service Office at a bank or branch location in Wisconsin. ~~Sections 3 and 4~~ expand the authority of the division to allow a Wisconsin state bank or trust company bank to offer trust services at the out-of-state offices of certain financial institutions.

INSERT LRB-3819 C

THIS and the preceding SECTION CS

NOTE: ~~Section 5~~ exempts from the definition of "business of banking" agents who receive and hold money pending investment in real estate or securities on behalf of the person who deposits the money. Under current law such an agent would only be exempt if the agent kept the money in a separate trust fund, did not mingle the money with the agent's own property, and did not agree to pay interest on the money. ~~Section 5~~ exempts such agents regardless of whether they pay interest or whether the money is kept separate.

INSERT LRB-3819 D

THIS SECTION CS

LRB-1437

NOTE: Under current law, a person who engages in business as a collection agency must be licensed by the division of banking in the department of financial institutions (DFI) and is subject to laws that specifically regulate collection agencies. Certain "professional men's associations" that collect accounts for their members on a nonprofit basis are exempt from the definition of "collections agency." Since the term "professional men's association" is currently not defined and DFI cannot locate any such organizations, ~~section 11101~~ deletes the exemption.

CS

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LRB-1440

NOTE: Under current law, pawnbrokers are subject to regulation under s. 138.10, Stats., which, among other things, limits loans to \$150 and caps interest rates at 3% per month.



If a pawnbroker wants to charge interest rates greater than 18%, the pawnbroker must also register as a licensed lender under s. 138.09, Stats. To register as a licensed lender, a pawnbroker must meet certain character and fitness, and financial responsibility requirements. In addition, the pawnbroker must meet certain record keeping and annual reporting requirements. Section 14 provides that if a pawnbroker registers as a licensed lender, the pawnbroker is exempt from the requirements of s. 138.10, Stats.

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